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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

- - - - - x
In re: : Chapter 11
:
CIRCUIT CITY STORES, INC., : Case No. 08-35653 (KRH)
et al., :
:
Debtors. : Jointly Administered
- - - - - x

**DEBTORS' MOTION FOR ORDER DIRECTING MEDIATION WITH RESPECT
TO FIRST AMENDED JOINT PLAN OF LIQUIDATION OF CIRCUIT CITY
STORES, INC. AND ITS AFFILIATED DEBTORS AND DEBTORS IN
POSSESSION AND ITS OFFICIAL COMMITTEE OF CREDITORS HOLDING
GENERAL UNSECURED CLAIMS**

The debtors and debtors in possession in the
above-captioned cases (collectively, the "Debtors")¹ hereby

¹ The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Circuit City Stores, Inc. (3875), Circuit City Stores West Coast, Inc. (0785), InterTAN, Inc. (0875), Ventoux International, Inc. (1838), Circuit City Purchasing Company, LLC (5170), CC Aviation, LLC (0841), CC Distribution Company of Virginia, Inc. (2821), Circuit City Properties, LLC (3353), Kinzer Technology, LLC (2157), Abbott Advertising Agency, Inc. (4659), Patapsco Designs, Inc. (6796),

(cont'd)

move (the "Motion") this Court for entry of an order directing mediation with respect to the First Amended Joint Plan Of Liquidation Of Circuit City Stores, Inc. And Its Affiliated Debtors And Debtors In Possession And Its Official Committee Of Creditors Holding General Unsecured Claims (the "Joint Plan"). In support of the Motion, the Debtors respectfully submit as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction to consider the Motion under 28 U.S.C. § 105. This is a core proceeding under 28 U.S.C. § 157(b). Venue of these cases and the Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409.

2. The statutory and legal predicate for the relief requested herein is section 105 of title 11, United States Code (the "Bankruptcy Code").

(cont'd from previous page)

Sky Venture Corp. (0311), PRAHS, Inc.(n/a), XSStuff, LLC (9263), Mayland MN, LLC (6116), Courchevel, LLC (n/a), Orbyx Electronics, LLC (3360), and Circuit City Stores PR, LLC (5512). The address for Circuit City Stores West Coast, Inc. is 9250 Sheridan Boulevard, Westminster, Colorado 80031. For all other Debtors, the address was 9950 Mayland Drive, Richmond, Virginia 23233 and currently is 4951 Lake Brook Drive, Glen Allen, VA 23060.

BACKGROUND

A. General Case Background.

3. On November 10, 2008 (the "Petition Date"), the Debtors filed voluntary petitions in this Court for relief under chapter 11 of the Bankruptcy Code.

4. On November 12, 2008, the Office of the United States Trustee for the Eastern District of Virginia appointed a statutory committee of unsecured creditors (the "Creditors' Committee"). To date, no trustee or examiner has been appointed in these chapter 11 cases.

5. On January 16, 2009, the Court authorized the Debtors, among other things, to conduct going out of business sales at the Debtors' remaining 567 stores pursuant to an agency agreement (the "Agency Agreement") between the Debtors and a joint venture, as agent (the "Agent"). On January 17, 2009, the Agent commenced going out of business sales pursuant to the Agency Agreement at the Debtors' remaining stores. The going out of business sales concluded on or about March 8, 2009.

B. The Joint Plan Of Liquidation.

6. Following months of negotiations, on August 24, 2009, the Debtors and the Creditors' Committee filed the Joint Plan Of Liquidation Of Circuit City Stores, Inc.

And Its Affiliated Debtors And Debtors In Possession And Its Official Committee Of Creditors Holding General Unsecured Claims (Docket. No. 4614) (the "Initial Plan"). Thereafter, the Initial Plan was amended by the Joint Plan (Docket No. 5124). Generally, the Joint Plan provides for the liquidation of the Debtors under chapter 11 of the Bankruptcy Code and distribution of the proceeds from such liquidation to the Debtors' creditors.

7. The associated disclosure statement (Docket. No. 5103) (the "Disclosure Statement") was approved on September 24, 2009.

8. After the Disclosure Statement was approved, the Debtors and the Creditors' Committee continued to negotiate issues related to the Joint Plan, including the form of the liquidating trust agreement that was to be filed in connection with a plan supplement. As a result of those negotiations, on November 5, 2009, the Debtors and the Creditors' Committee filed a supplement to the Joint Plan (the "Plan Supplement"). The Plan Supplement included, among other documents, a draft of the liquidating trust agreement (the "Trust Agreement").

9. At the time the Trust Agreement was filed, the Debtors and the Creditors' Committee had not agreed to

the final terms thereof because, among other things, the Creditors' Committee had not provided the Debtors with a draft of the proposed liquidating trust oversight committee bylaws (the "Bylaws"). Indeed, the Creditors' Committee did not provide the Debtors with a draft of the Bylaws until March 30, 2010 and only after repeated requests. Since then, the Debtors and the Creditors' Committee have continued to attempt to reach a global resolution concerning the Joint Plan, the Trust Agreement, and the Bylaws.

10. To date, the Joint Plan has not been confirmed. A status conference with respect to confirmation is scheduled for June 8, 2010.

C. The Creditors' Committee's Notice Of Filing Plan.

11. On June 1, 2010, the Creditors' Committee filed its Notice of Filing (1) Plan of Liquidation Proposed by the Official Committee of Creditors of Circuit City Stores, Inc. and Its Affiliated Debtors and Debtors in Possession; (2) Circuit City, Inc. Liquidating Trust Agreement; and (3) Proposed Bylaws of the Oversight Committee (Docket. No. 7678) (the "Notice"). The Notice was accompanied by the Creditors' Committee's proposed plan of liquidation (the "Committee's Plan"), a proposed

liquidating trust agreement (the "Committee's Liquidating Trust Agreement") and proposed bylaws of the oversight committee (the "Committee's Bylaws" and, together with the Committee's Plan and Committee's Liquidating Trust Agreement, the "Committee Plan Documents") along with redline documents that show changes to the Joint Plan and the last version of the Trust Agreement and Bylaws that the Debtors transmitted to the Creditors' Committee.²

RELIEF REQUESTED

12. By this Motion, the Debtors seek entry of an order directing the Creditors' Committee to participate in mediation with the Debtors to attempt to consensually resolve issues related to the Joint Plan, the Trust Agreement, and the Bylaws. The Debtors are willing to participate in a mediation process with either this Court, if this Court is so inclined, or a different Judge or other disinterested third party.

BASIS FOR RELIEF

13. During the late Spring and throughout summer of 2009, the Debtors and the Creditors' Committee

² It is worth noting that the draft Trust Agreement and Bylaws sent by the Debtors and to which the Creditors' Committee created redlines were "discussion" drafts to assist with a possible resolution and had not been formally proposed by the Debtors.

participated in extensive negotiations to determine whether the parties could consensually proceed to confirmation pursuant to a joint plan of liquidation. As part of that process, the Debtors and the Creditors' Committee negotiated the terms of the Joint Plan.

14. Although the Joint Plan included compromises of many significant issues, the Joint Plan and the issues compromised thereby were only one piece of a larger settlement that the Debtors and the Creditors' Committee were attempting to reach. In fact, at the time the Joint Plan was filed, the Debtors and the Creditors' Committee had not negotiated the terms of the Trust Agreement.

15. After the Disclosure Statement was approved, the Creditors' Committee provided the Debtors with a draft of the Trust Agreement. And, over the next several weeks, the Debtors and the Creditors' Committee negotiated many, but not all, of the terms of the Trust Agreement. The parties were unable to finalize the terms of the Trust Agreement, however, because, in part, the Creditors' Committee had indicated that certain issues would be addressed in the Bylaws; at that time, the Creditors'

Committee had not yet provided the Debtors with a draft of the Bylaws.

16. Beginning in early November, 2009, and continuing until late March, 2010, the Debtors repeatedly requested a draft of the Bylaws from the Creditors' Committee. Finally, on March 30, 2010, the Creditors' Committee provided the Debtors with a draft of Bylaws.

17. Since then, the Debtors and the Creditors' Committee have attempted to resolve the remaining issues with respect to the Joint Plan, the Trust Agreement, and the Bylaws. Whenever the parties appeared to be at an impasse, the Debtors offered mediation, but those offers were rejected by the Creditors' Committee. Ultimately, on June 1, 2010, the Creditors' Committee advised the Debtors that they would proceed separately and filed the Notice attached to which are the Committee Plan Documents.

18. As evidenced by the redlines of the Plan Documents attached to the Notice, the parties had made significant progress, but certain issues remain open with respect to the Joint Plan, the Trust Agreement, and the Bylaws. Notwithstanding those differences, the Debtors continue to believe that a consensual resolution is possible, if a third party mediator becomes involved. In

that regard, the Debtors maintain that Court ordered mediation is in the best interests of the Debtors' creditors and their estates because, among other things, mediation (i) might avoid the costs and litigation associated with soliciting the Committee Plan, (ii) might avoid the costs and litigation associated with any competing plan that may be filed by the Debtors, (iii) will require both parties to have a neutral third party hear the parties' positions and attempt to get the parties to resolve their differences, and (iv) might avoid undoing the results of almost a year of negotiations between the parties.

APPLICABLE AUTHORITY

19. Section 105 of the Bankruptcy Code provides that "[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105. Under Local Bankruptcy Rule 9019-1 and General Order No. 92-1-2, this Court has the authority to order mediation in the context of contested matters, such as plan confirmation. See Local Bankruptcy Rule 9019-1 (providing that District Court Local Rule 83.6, which governs mediation, is made applicable in adversary proceedings); see also General Order No. 92-1-2,

§ 3.1, 3.3 (Bankr. E.D. Va. 1992) (noting that matter may be assigned to mediation by the Court and recognizing that such may take the form of an "adversary proceeding" or a "contested matter."). Here, an order directing the Creditors' Committee to participate in mediation with the Debtors is both necessary and appropriate given that it could bring about an efficient resolution of the case and preserve the estates' remaining assets.

20. Indeed, at least one court has ordered mediation in the context of disputes regarding plan and confirmation. See Steven R. Wirth and Joseph P. Mitchell, A Uniform Structural Basis For Nationwide Authorization Of Bankruptcy Court-Annexed Mediation, 6 Am Bankr. Inst. L. Rev. 213, 218, n.41 (1998) (citing In re R.H. Macy & Co., 173 B.R. 470, 471-72 (Bankr. S.D.N.Y. 1994) for the proposition that, on its own motion, the court ordered a mediation to attempt to quickly devise a consensual plan of reorganization).

21. Moreover, there is a strong policy in favor of resolving disputes in bankruptcy through mediation. See Wirth, 6 Am Bankr. Inst. L. Rev. at 234 (recognizing that "[t]he current docket logjam, amplified by the substantial increase in trial costs, makes [bankruptcy] court-annexed

mediation an appetizing alternative to litigation."). And, it is unlikely that the Creditors' Committee would suffer any material prejudice by participating in a mediation because any delay would likely be relatively short and insignificant. See Wirth, 6 Am Bankr. Inst. L. Rev. at 219 ("since mediation is not binding, it should be no problem for a court to refer a matter to mediation when the court determines that no prejudice will likely occur.").

22. Accordingly, the Debtors' submit that court ordered mediation is necessary and appropriate in these circumstances.

NOTICE

23. Notice of this Motion has been provided to those parties entitled to notice under this Court's Order Pursuant to Bankruptcy Code Sections 102 and 105, Bankruptcy Rules 2002 and 9007, and Local Bankruptcy Rules 2002-1 and 9013-1 Establishing Certain Notice, Case Management, and Administrative Procedures (Docket No. 130). The Debtors submit that, under the circumstances, no other or further notice need be given.

WAIVER OF MEMORANDUM OF LAW

24. Pursuant to Local Bankruptcy Rule 9013-1(G), and because there are no novel issues of law presented in

the Motion and all applicable authority is set forth in the Motion, the Debtors request that the requirement that all motions be accompanied by a separate memorandum of law be waived.

NO PRIOR REQUEST

25. No previous request for the relief sought herein has been made to this Court or any other court.

CONCLUSION

WHEREFORE, the Debtors respectfully request that the Court enter an Order, substantially in the form annexed hereto, granting the relief requested in the Motion and such other and further relief as may be just and proper.

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Proposed Order

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

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In re: : Chapter 11
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CIRCUIT CITY STORES, INC., : Case No. 08-35653 (KRH)
et al. :
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Debtors. : Jointly Administered
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**ORDER GRANTING DEBTORS' MOTION FOR ORDER DIRECTING MEDIATION
WITH RESPECT TO FIRST AMENDED JOINT PLAN OF LIQUIDATION OF
CIRCUIT CITY STORES, INC. AND ITS AFFILIATED DEBTORS AND
DEBTORS IN POSSESSION AND ITS OFFICIAL COMMITTEE OF
CREDITORS HOLDING GENERAL UNSECURED CLAIMS**

Upon consideration of the Debtors' Motion for Order
Directing Mediation with Respect to First Amended Joint Plan
of Liquidation of Circuit City Stores, Inc. and its
Affiliated Debtors and Debtors in Possession and Its

Official Committee of Creditors Holding General Unsecured Claims (the "Motion"); and the Court having reviewed the Motion; and the Court having determined that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors, and other parties in interest; and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and upon the record herein; and after due deliberation thereon; and good and sufficient cause appearing therefor, it is hereby

ORDERED, ADJUDGED, AND DECREED that:

1. The Motion is GRANTED.
2. The Debtors and the Creditors' Committee are directed to commence and complete mediation of any remaining dispute relating to the Joint Plan within thirty (30) days of the date of entry of this Order and be prepared to discuss the results thereof at a status conference to be held on July 12, 2010 at 2:00 p.m. (Eastern).

3. This Court will retain jurisdiction with respect to any dispute concerning the relief granted hereunder.

Dated: Richmond, Virginia
_____, 2010

UNITED STATES BANKRUPTCY JUDGE

WE ASK FOR THIS:

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Counsel to the Debtors and Debtors in Possession

CERTIFICATION OF ENDORSEMENT UNDER LOCAL RULE 9022-1(C)

Pursuant to Local Bankruptcy Rule 9022-1(C), I hereby certify that the foregoing proposed order has been endorsed by or served upon all necessary parties.

/s/ Douglas M. Foley